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14 Stephen Howe

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

RUDOLPH ZAHLER, PKA RIZ STORY

Plaintiff,

vs.

STEPHEN HOWE; "YES," A BUSINESS  
ENTITY, CORPORATE FORM AND  
RESIDENCE UNKNOWN; JON  
DAVISON; SONY MUSIC  
ENTERTAINMENT, A DELAWARE  
GENERAL PARTNERSHIP,

Defendants.

Case No. 2:24-cv-09818-AH-E

**ANSWER TO SECOND AMENDED  
COMPLAINT**

1                   **ANSWER TO COMPLAINT AND AFFIRMATIVE DEFENSES**

2           Defendant Stephen Howe (“Howe”), by and through counsel, hereby responds to  
3           the Second Amended Complaint filed by Plaintiff Rudolph Zahler in this action on April  
4           2, 2025 (“Complaint”) (Docket No. 30).

5           This court granted with prejudice a Motion to Dismiss as to the second cause of  
6           action in the Complaint on May 12, 2025 (Docket No. 36). As a result, Plaintiff’s  
7           Complaint contains one cause of action for copyright infringement.

8                   **RESPONSE TO NUMBERED PARAGRAPHS**

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11           1.     Howe lacks knowledge or information sufficient to form a belief as to the  
12           truth or falsity of the allegations in paragraph 1 of the Complaint.

13           2.     Howe admits that he is an individual, a musician and songwriter, a member  
14           of the band YES, and is a resident of the United Kingdom.

15           3.     Howe lacks knowledge or information sufficient to form a belief as to the  
16           truth or falsity of the allegations in paragraph 3 of the Complaint.

17           4.     Howe lacks knowledge or information sufficient to form a belief as to the  
18           truth or falsity of the allegations in paragraph 4 of the Complaint.

19           5.     Howe lacks knowledge or information sufficient to form a belief as to the  
20           remaining allegations in paragraph 5 of the Complaint.

21           6.     Howe denies all of the factual allegations of paragraph 6 of the Complaint.  
22           To the extent that this paragraph asserts legal conclusions, Howe denies them as  
23           unsupported by specific facts and contend they are not entitled to a presumption of truth.  
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1           7.     Howe admits this Court has subject matter jurisdiction over the copyright  
2 claim under 28 U.S.C. §§ 1331 and 1338(a), denies it under § 1332 absent diversity facts,  
3 and denies it for the dismissed Lanham Act claim.  
4

5           8.     Howe denies that venue is proper under 28 U.S.C. § 1391(b), as the  
6 allegation that copyright infringement occurred in this District is a legal conclusion.  
7 Howe denies engaging in any copyright infringement.  
8

9           9.     Howe lacks knowledge or information sufficient to form a belief as to the  
10 truth or falsity of the allegations in paragraph 9 of the Complaint.  
11

12           10.    Howe lacks knowledge or information sufficient to form a belief as to the  
13 truth or falsity of the allegations in paragraph 10 of the Complaint. Howe lacks  
14 knowledge of any song entitled, “Reunion.”  
15

16           11.    Howe lacks knowledge or information sufficient to form a belief as to the  
17 truth or falsity of the allegations in paragraph 11 of the Complaint due to the fact that  
18 there is no document purporting to be a Copyright Registration attached as Exhibit 1 to  
19 the Complaint. Page 26 of 26 of the filed Complaint appears to contain a photograph of  
20 a Certificate of Registration for a motion picture work titled, “A Winter Rose” naming  
21 Riz Story as the author. However, Howe denies the truth, accuracy, validity, or scope of  
22 the registration, and Plaintiff’s authorship or ownership, lacking sufficient knowledge to  
23 admit or deny these allegations and noting the discrepancy between the alleged number  
24 (PAu 3-759-238) and photograph (PAu 3-759-239). Further, there is no copyright  
25 registration for Plaintiff’s alleged song “Reunion.”  
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1           12.   Howe lacks knowledge or information sufficient to form a belief as to the  
2 truth or falsity of the allegations in paragraph 12 of the Complaint, and on that basis  
3 denies the same.  
4

5           13.   Howe lacks knowledge or information sufficient to form a belief as to the  
6 truth or falsity of the allegations in paragraph 13 of the Complaint, and on that basis  
7 denies the same. Howe denies that the absence of such registration precludes  
8 authorization for any public performance of “Reunion,” if any occurred, through other  
9 means.  
10

11           14.   Howe denies the allegations in paragraph 14 of the Complaint.

12           15.   Howe lacks knowledge or information sufficient to form a belief as to the  
13 truth or falsity of the allegations in paragraph 15 of the Complaint, and on that basis  
14 denies the same, due to the fact that there is no document attached as Exhibit 2 to the  
15 Complaint.  
16

17           16.   Howe lacks knowledge or information sufficient to form a belief as to the  
18 truth or falsity of the allegations in paragraph 16 of the Complaint, and on that basis  
19 denies the same.  
20

21           17.   Howe lacks knowledge or information sufficient to form a belief as to the  
22 truth or falsity of the allegations in paragraph 17 of the Complaint, and on that basis  
23 denies the same.  
24

25           18.   Howe lacks knowledge or information sufficient to form a belief as to the  
26 truth or falsity of the allegations in paragraph 18 of the Complaint, and on that basis  
27 denies the same.  
28

1           19.   Howe lacks knowledge or information sufficient to form a belief as to the  
2 truth or falsity of allegations concerning Mr. Davison, and on that basis denies the same.  
3 To the extent that this paragraph asserts legal conclusions, Howe denies them as  
4 unsupported by specific facts and contend they are not entitled to a presumption of truth.  
5 Howe admits that the unnumbered paragraph starting on line 3 of page 6 of the Complaint  
6 references a document from a purported musicologist named Ethan Lustig, and is attached  
7 to the Complaint as Exhibit 3. Howe lacks knowledge or information sufficient to form a  
8 belief as to the truth or falsity of the contents of the “expert opinion” or “curriculum vitae,”  
9 and therefore denies the same.

#### 12                                   **FIRST CAUSE OF ACTION**

13           20.   Howe neither admits nor denies Plaintiff’s allegations in paragraph 20 of  
14 the Complaint.

15           21.   Howe denies Plaintiff’s allegations in paragraph 21 of the Complaint. To  
16 the extent that paragraph 21 asserts legal conclusions, Howe denies them as unsupported  
17 by specific facts and contend they are not entitled to a presumption of truth.

#### 19                                   **SECOND CAUSE OF ACTION**

20           22.   The second cause of action was dismissed by the court. Therefore, Howe  
21 shall not respond to any Plaintiff allegations in paragraph 22 or 23 of the Complaint.

#### 23                                   **FURTHER ANSWER AND AFFIRMATIVE DEFENSES**

24           By way of further Answer and as Affirmative Defenses, Howe denies that he is  
25 liable to Plaintiff on any of the claims alleged in the Complaint and denies that Plaintiff  
26 is entitled to any damages, equitable relief, attorneys' fees, costs, pre-judgment interest,  
27 or to any relief whatsoever, and state as follows:  
28

**Failure to State a Claim**

23. The First Cause of Action for copyright infringement fails to state a claim upon which relief can be granted under Federal Rule of Civil Procedure 12(b)(6).

**De Minimis Use**

24. Any alleged use of the “A Winter Rose” film by Howe is *de minimis*.

**Lack of Personal Jurisdiction**

25. The Court lacks personal jurisdiction over Howe due to insufficient minimum contacts alleged with the Central District of California related to the factual pleadings in the Complaint.

**Improper Venue**

26. Venue is improper under 28 U.S.C. § 1391(b), as the Complaint fails to plead infringing acts by Howe in this District.

**Fair Use**

27. Any use, reproduction, distribution, public performance or creation of derivative works of “Reunion” by Howe constitutes fair use under 17 U.S.C. § 107.

**First Sale**

28. Howe’s distribution of “Reunion,” if any, is protected by the first sale doctrine under 17 U.S.C. § 109(a), as it involved lawfully acquired copies.

**License or Authorization**

29. Howe’s use of “Reunion,” if any, was authorized by a valid license, express or implied, or other permission.

**Statute of Limitations**

1           30. The First Cause of Action is barred by the three-year statute of limitations  
2 under 17 U.S.C. § 507(b).

3  
4                           **No Infringement**

5           31. Howe did not copy, perform, distribute, or otherwise infringe any  
6 protectable elements of “Reunion” because “Reunion” is not an original or creative work  
7 of Plaintiff.

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9                           **Lack of Originality**

10          32. Plaintiff’s “Reunion” lacks sufficient originality to warrant copyright  
11 protection because it is an arrangement of notes already created by numerous prior artists.

12                           **Invalid Registration**

13          33. Plaintiff’s copyright registration for “Reunion” is invalid or does not cover  
14 the alleged infringement.

15  
16                           **Innocent Infringement**

17          34. The First Cause of Action is barred, in whole or in part, because any  
18 infringement, if any, was innocent.

19  
20                           **Estoppel**

21          35. Plaintiff is estopped from asserting infringement due to his conduct,  
22 representations, or delay in pursuing this claim.

23                           **Laches**

24          36. Plaintiff’s unreasonable delay in filing the Complaint, after knowing or he  
25 should have known of his claim, has prejudiced Howe.

26  
27                           **Waiver**

1           37. Plaintiff voluntarily and intentionally relinquished a known right, thus  
2 preventing the Plaintiff from pursuing their claim for the First Cause of Action.

3  
4                                   **No Damage**

5           38. Without admitting that the Complaint states a claim, there has been no  
6 damage in any amount or manner by reason of any act alleged against Howe in the  
7 Complaint, and the relief prayed for in the Complaint therefore cannot be granted.

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9                                   **Reservation**

10          39. Howe reserves the right to assert additional defenses as discovery reveals  
11 further facts or legal grounds.

12                                   **REQUEST FOR RELIEF**

13           Wherefore, given Howe's above response to the Complaint, Howe respectfully  
14 requests that the Court grant Howe the following relief:  
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16          1. That the Complaint be dismissed with prejudice and judgment granted in  
17 Howe's favor;

18          2. That the Court award Howe its reasonable attorneys' fees in connection  
19 with this litigation pursuant to 17 U.S.C. § 505;  
20

21          3. That the Court award Howe its costs in connection with this litigation under  
22 17 U.S.C § 505; and

23          4. That the Court award Howe such other and further relief as the Court deems  
24 just and proper.  
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26                                   **DEMAND FOR JURY TRIAL**

27          Howe demands a trial by jury on the First Cause of Action.  
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1 Dated: November 5, 2025

Respectfully submitted,

2 **AESTHETIC LEGAL, A.P.L.C.**

3  
4 By: /s/ Matthew Swanlund

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